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January 4, 1955

George F. Nelson,  
Assistant Attorney General

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Frederick W. Clarke,  
Commissioner of Motor Vehicles  
State House Annex  
Concord, N.H.

SEP 22 1998

CONCORD N.H.

Dear Fred:

I have gone into the question raised by your communication of December 22 as to whether or not, under our present motor vehicle statutes you would be privileged to cause re-examination of all drivers involved in personal injury accidents.

Revised Laws, chapter 117, section 3 provides in the first instance that no license shall be issued until you are satisfied that the applicant is a proper person to receive it. Having made such determination any individual is authorized to continue to enjoy the privilege of operation of motor vehicles until suspension or revocation of said license after due hearing for any cause which you will deem sufficient under Revised Laws, chapter 118, section 32, or conviction of offenses as set forth in chapter 118, particularly sections, 13, 14, 16, 19 and 31.

Under the existing law it is my opinion that an operator involved in a personal injury accident without any of the other revocation or suspension factors of chapter 118, would be entitled to a hearing and I have grave doubt that mere involvement in a personal injury accident would be sufficient to require re-examination, unless you have reason to believe that the holder of the license is physically or mentally an improper or incompetent person to operate motor vehicles, or is operating improperly or so as to endanger the public, or has appealed from a conviction of the violation of any provision of the motor vehicle law or has made a material false statement on his application as provided in section 33.

It is my opinion that the language of section 2 of chapter 117 exempting an applicant from examination if he has been "theretofore licensed to operate a motor vehicle in this state" bars you from instituting a complete re-examination program upon your own initiative and I advise that sanction of the Legislature would be required to authorize such a program.

Very truly yours,

George F. Nelson  
Assistant Attorney General